

UNITED STATES  
v.  
KEITH LINDSEY

IBLA 80-59

Decided August 25, 1980

Appeal from decision of Administrative Law Judge Robert W. Mesch declaring lode mining claims invalid for lack of discovery of a valuable mineral deposit. CA 5171.

Affirmed.

1. Administrative Procedure: Administrative Review--Mining Claims: Contests

Where facts and law are properly set forth and applied in Administrative Law Judge decision holding lode mining claims void for lack of discovery, and appellant has made no showing that the decision is in error, the decision may be adopted by the Board of Land Appeals and affirmed.

APPEARANCES: Keith Lindsey, pro se.

OPINION BY ADMINISTRATIVE JUDGE GOSS

Keith Lindsey appeals from the September 28, 1979, decision of Administrative Law Judge Robert W. Mesch declaring the Spring No. 1 through Spring No. 1 lode mining claims invalid for lack of a valuable discovery. Appellant claims his evidence at the hearing showed proof of discovery.

[1] The facts and law herein are properly set forth and applied in the Administrative Law Judge's decision. Appellant has made no showing that the decision is in error. An examination of the record having shown that all points of law have been fully discussed and ruled upon in previous Board decisions, and that further discussion thereof is not necessary, the decision of the Administrative Law Judge is adopted by the Board.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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Joseph W. Goss  
Administrative Judge

I concur:

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Anne Poindexter Lewis  
Administrative Judge

## ADMINISTRATIVE JUDGE THOMPSON CONCURRING:

In his appeal, appellant simply states that at the hearing on the mining claims in this case he submitted proof to show that the claims were valid mining locations. He contends that if the decision is allowed to stand "there is no way anyone can justify the time and expense to prospect and locate claims on the public domain." At the hearing the Administrative Law Judge carefully considered the evidence and points raised by appellant. He addressed them in his decision and found that the contestee's evidence did not sufficiently overcome the Government's prima facie case of establishing that there was not a discovery of a valuable mineral deposit within the claims. From our review of the evidence, we must agree. Appellant has not demonstrated any specific error in the Judge's findings.

It is apparent from the Judge's decision and the record in this case that the contest proceeding was brought to determine the validity of appellant's claims pursuant to the instruction in the Act of September 28, 1976, 90 Stat. 1343, 16 U.S.C. § 1905 (1976), for the Department to determine the validity of mining claims within the Death Valley National Monument. These lands were closed to mining by section 3(d) of the Act. 90 Stat. 1342. It was thus essential for the claimant to have made his discovery before the date of the Act. Appellant's contentions cannot be accepted in light of all the factual circumstances shown in this case. The mere assertion of his opinion is not sufficient to demonstrate error here.

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Joan B. Thompson  
Administrative Judge

